

REMARKS

In the above referenced Office Action, claims 1-30 have been rejected as being anticipated under 35 U.S.C. 102. In accordance with the foregoing, claims 1, 6, 9, 11, 15, 18, 21, 26, and 29 and have been amended. Claims 1-30 are pending. Applicant respectfully traverses the rejections and requests a withdrawal of all rejections as set forth below.

Claims 1-5, 11-14, and 21-25 stand rejected under 35 USC 102(e) as being anticipated by Park et al. (US 2003/0153954, hereinafter "Park"). As the Examiner is well aware, in order for a reference to anticipate a claim, that reference must teach each element of the properly construed claim. Contrary to the Examiner's assertion, Park fails to teach, among other things, extending a pacing interval between the delivered pacing pulse and a subsequently delivered pacing pulse. As such, the rejection is improper and should be withdrawn.

Park teaches using dynamic overdrive pacing to prevent sleep apnea. One having ordinary skill in the art is well aware that in order to overdrive pace the heart, the pacing interval between pacing pulses is shortened so that the pacing rate is higher than the intrinsic cardiac rate. Park indicates a fixed rate increment or a fixed escape interval decrement (paragraph 112). Accordingly, Park does not teach, suggest or imply extending a pacing interval (which results in a lower pacing rate) based on detection of intrinsic ventricular activity.

Claims 1, 2, 4-12, 14-23, and 25-31 stand rejected under 35 USC 102(e) as being anticipated by Van Dam (US 6,836,682, hereinafter "Van Dam"). Van Dam teaches a rate responsive pacing system using Q-T interval data. The Q-T interval data may be obtained whether the patient is being paced or has an intrinsic heartbeat. However, Van Dam does make a determination whether the Q-T interval measured during pacing, or the QRS and T signals used in measuring the Q-T interval, contain intrinsic activity. As such, Van Dam does not teach, suggest or imply detecting intrinsic ventricular activity within a sensed ventricular signal resulting from a delivered pacing pulse as stated in the claims

of the present invention. Applicant respectfully requests that the rejection be withdrawn.

In accordance with the above discussion, Applicant asserts that the presently claimed invention is patentably distinguishable from the indicated references. As such, Applicant respectfully asserts that the present claims are in condition for allowance and notice of the same is earnestly solicited.

Respectfully submitted,

PETER OOSTERHOFF, ET AL.

March 25, 2006

Date

/s/Daniel G. Chapik

Daniel Chapik
Reg. No. 43,424
(763) 514-4842
Customer No. 27581